



H.R. 5501 – Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008

EXECUTIVE SUMMARY

H.R. 5501 will be considered on the floor under a structured rule on April 2, 2008. It was introduced by Representative Howard Berman (D-CA) and reported from the Committee on Foreign Affairs by voice vote on March 10, 2008.

President George W. Bush announced the President's Emergency Plan for AIDS Relief (PEPFAR) during the State of the Union, 2003. Congress subsequently passed the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (P.L. 108-25), which provided \$15 billion to countries most afflicted by HIV/AIDS - the largest commitment to an international health initiative by a single nation.

PEPFAR funding has supported antiretroviral treatment for approximately 1.445 million individuals globally. In addition, PEPFAR funding has supported the prevention of mother-to-child HIV transmission services for women during more than 10 million pregnancies and prevented an estimated 157,000 infant infections. Earlier this year, President Bush announced a five-year, \$30 billion plan to continue America's commitment to fighting HIV/AIDS around the world.

H.R. 5501 authorizes \$50 billion over five years for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009 to 2013. In addition, the bill adds Vietnam and 14 Caribbean nations to the list of PEPFAR focus countries. The bill strengthens the "conscience clause" by clarifying that groups receiving funds are not required to endorse or utilize any activities of programs that they find morally or religiously objectionable and contains a provision that authorizes the provision of HIV/AIDS services only at family planning programs that receive U.S. Government family planning funding.

**Note: Although Committee Democrats initially circulated draft legislation that would have significantly changed social policy provisions currently included in PEPFAR, Committee Republicans and Democrats reached a compromise that alleviated Committee Republican concerns with the bill.*

The Congressional Budget Office (CBO) estimates "that implementing H.R. 5501 would cost \$1.5 billion in 2009 and \$35 billion over the 2009-2013 period, assuming appropriation of the authorized amounts."

FLOOR SITUATION

H.R. 5501 is being considered on the floor under a structured rule. The Rule:

- Provides two hours of general debate equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Foreign Affairs.
- Waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI.
- Provides that the bill shall be considered as read.
- Waives all points of order against provisions of the bill. The waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).



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- No amendments shall be in order except those amendments printed in the Rules Committee report accompanying the resolution.
- Provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.
- Waives all points of order against the amendments printed in the report except for clauses 9 and 10 of rule XXI.
- Provides one motion to recommit with or without instructions.

This legislation was introduced by Representative Howard Berman (D-CA) on February 27, 2008. The bill was reported by the Committee on Foreign Affairs on March 10, 2008, by voice vote.

H.R. 5501 is expected to be considered on the House floor on April 2, 2008.

BACKGROUND

In his 2003 State of the Union Address, President George W. Bush announced the President's Emergency Plan for AIDS Relief (PEPFAR) and requested that Congress appropriate \$15 billion to "turn the tide against AIDS in the most afflicted nations." Congress passed the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (P.L. 108-25), which provided the largest commitment to an international health initiative by a single nation.

According to the latest results on PEPFAR's website (www.pepfar.gov), the Emergency Plan has supported antiretroviral treatment for approximately 1.445 million individuals globally. In addition, PEPFAR funding has supported the prevention of mother-to-child HIV transmission services for women during more than 10 million pregnancies, prevented an estimated 157,000 infant infections, as well as provided care for more than 6.6 million individuals, including 2.7 million orphans and vulnerable children.

On May 30, 2007, President Bush announced a five-year, \$30 billion plan to continue America's commitment to fighting HIV/AIDS around the world. The President's plan focuses on continuing support for current PEPFAR initiatives and strengthening health systems in order to transition from an emergency plan to one that can provide sustainable treatment, prevention, and care. ([White House Fact Sheet on HIV/AIDS Plan](#))

Democrats on the House Committee on Foreign Affairs circulated draft legislation for PEPFAR Reauthorization that would have made significant changes to social policy provisions included in P.L. 108-25. Committee Republicans objected to these changes, which included family planning language that could have enabled funding to be used for abortions overseas. Committee Republicans and Democrats reached a compromise that alleviated Republican concerns with the bill, and it was voice voted out of the Committee on February 27, 2008.

On March 13, 2008, the Senate Committee on Foreign Relations approved PEPFAR Reauthorization legislation (S. 2731) by a vote of 18-3. S. 2731 includes an amendment offered by Senator John Kerry (D-MA) that would lift the United States travel restriction on HIV positive foreign nationals. The Senate legislation does not contain explicit restrictions on cooperation with family planning programs which could



lead to cooperation with family planning programs that provide abortions if the next Administration overturns the current Executive Order.

**Note: H.R. 5501 contains a provision that authorizes the provision of HIV/AIDS services only at family planning programs that receive U.S. Government family planning funding, which limits funding for family planning programs that provide abortions. Family planning organizations that provide abortions overseas are ineligible for U.S. family planning funding.*

SUMMARY

H.R. 5501 authorizes \$50 billion for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009 to 2013.

Title I – Policy Planning and Coordination

Development of a Comprehensive, Five-Year, Global Strategy: H.R. 5501 directs the President to expand the prevention strategies to include the reduction of behavioral risks associated with HIV/AIDS, including promoting abstinence, encouraging delay of sexual debut, monogamy, fidelity, and partner reduction, and promoting the effective use of male and female condoms. In addition, it requires the President to include specific plans for linkage to organizations that provide a variety of public services, including food and nutrition support, child health services, and HIV/AIDS education.

HIV/AIDS Response Coordinator: The bill adds Vietnam and 14 Caribbean countries to the list of countries that the Coordinator has explicit statutory authority over and requires the Coordinator to create alternatives to prostitution and work to end sex trafficking.

Title II – Support for Multilateral Funds, Programs, and Public-Private Partnerships

Participation in the Global Fund: H.R. 5501 authorizes \$2 billion for each of the fiscal years 2009 and 2010 and such sums as necessary for fiscal years 2011 to 2013.

- The bill states that U.S. support for the Global Fund should be based on transparency and accountability benchmarks, including that a well-staffed independent office of Inspector General report to the Fund Board, the Fund Secretariat establishes a database that tracks funds that have been disbursed and the distribution of resources, and that the Fund Board terminates its Administrative Services Agreement with the World Health Organization.
- H.R. 5501 also bases support of the Global Fund based on benchmarks related to the founding principles of the Fund, including that it remain focused on programs directly related to HIV/AIDS, malaria, and tuberculosis and that it maintains its Comprehensive Funding Policy.

**Note: The Global Fund's Comprehensive Funding Policy specifies that they can only sign grant agreements if there is enough funding to support the first two years of grant activities.*

- In addition, it notes that Section 625 of the Consolidated Appropriations Act, 2008 (P.L. 110-161) requires 20 percent of funds appropriated for the Global Fund to be withheld if the Global Fund fails to meet certain benchmarks.

Microbicide Availability: H.R. 5501 authorizes U.S. Agency for International Development in coordination with the Coordinator of U.S. Government Activities to Combat HIV/AIDS Globally to develop and implement a program to facilitate the availability of microbicides that prevent the transmission of HIV after microbicides are proven safe and effective.



Title III – Bilateral Efforts

Subtitle A

HIV/AIDS Policy: H.R. 5501 sets forth the policy of the United States to prevent 12 million new HIV infections worldwide, support treatment of at least 3 million individuals with HIV/AIDS with the goal of treating 450,000 children, provide care for 12 million individuals affected by HIV/AIDS, including 5 million orphans and vulnerable children, and train at least 140,000 new health care professionals and workers for HIV/AIDS prevention, treatment, and care by 2013.

Strengthening Public Health Delivery Systems: The bill includes a sense of Congress that the United States should provide assistance to host countries to support the development of a policy framework for the long-term sustainability of HIV/AIDS prevention, treatment, and care programs and the health care workforce.

Family Planning Programs: H.R. 5501 contains a provision that authorizes the provision of HIV/AIDS services at family planning programs that receive U.S. Government family planning funding, which excludes funding for family planning programs that provide abortions. Family planning organizations that provide abortions overseas are ineligible for U.S. family planning funding.

"Three Ones" Goals of UNAIDS: H.R. 5501 includes a sense of Congress that the Coordinator of U.S. Government Activities to Combat HIV/AIDS Globally should operate in a manner consistent with the "Three Ones" Goals of UNAIDS, which are (1) the goal of one agreed HIV/AIDS framework, (2) the goal of one national HIV/AIDS coordinating authority, and (3) the goal of one country-level data-collection, monitoring, and evaluation system.

Food Security: The bill states that it is the policy of the United States to fully integrate food and nutrition support into HIV/AIDS prevention, treatment, and care programs. It requires the Coordinator, where feasible, to ensure that people enrolled in treatment programs have access to a nutritional assessment and nutritional counseling.

Conscience Clause: H.R. 5501 strengthens the existing conscience clause by clarifying that groups receiving funds are not required to endorse, utilize, or refer for any activities or programs that they find morally or religiously objectionable.

Tuberculosis (TB): H.R. 5501 sets the goals of reducing by one-half the tuberculosis death and disease burden from the 1990 baseline; sustaining or exceeding the detection of at least 70 percent of sputum smear-positive cases to TB; and curing at least 85 percent of detected TB cases by December 31, 2015. It also allows for priority to be given to activities described in the World Health Organization's "Stop TB Strategy."

**Note: This provision includes the language of the Stop TB Now Act (H.R. 1567) which passed the House by voice vote under suspension of the rules on November 5, 2007. The full Senate has not considered H.R. 1567 or related legislation. ([Legislative Digest for H.R. 1567](#))*

Malaria: H.R. 5501 requires the President to establish a comprehensive, five-year strategy to combat global malaria and creates a Coordinator of United States Government Activities to Combat Malaria Globally within the USAID.

Subtitle B – Assistance for Women, Children, and Families

Goals: H.R. 5501 establishes a target for prevention and treatment of mother-to-child transmission of HIV that will reach at least 80 percent of pregnant women in countries most affected by HIV/AIDS and a target requiring that children represent 15 percent of individuals receiving care and treatment by 2013. In addition, the bill sets a goal of preventing 12 million new HIV infections worldwide by pursuing a



strategy that addresses the needs vulnerabilities of women and youth to HIV infection and seeks to reduce the factors that lead to gender disparities in the rate of HIV infection.

Report: The bill requires the President to transmit a report to Congress that includes a description of the prevention programs designed to address the vulnerabilities of women and youth to HIV/AIDS and a list of nongovernmental organizations in each country that receive assistance from the U.S.

TITLE IV – Authorization of Appropriations

Balanced Funding: H.R. 5501 requires the Coordinator to provide balanced funding for prevention activities for sexual transmission of HIV/AIDS. It also ensures that behavioral change programs, including abstinence and be faithful programs, are funded in a “meaningful and equitable way.” In addition, the bill requires the Coordinator to establish a HIV sexual transmission prevention strategy in each host country with a generalized epidemic and provide justification to Congress in the form of a report if less than 50 percent of prevention funds in a given country are used for behavioral change programs, including abstinence and faithfulness programs.

**Note: Current law includes a one-third funding directive for “abstinence until marriage” programs.*

AMENDMENTS

(Below is the summary of the amendment that was made in order by the Rules Committee and may be offered on the floor of the House of Representatives)

- 1) Rep. Earl Blumenauer (D-OR): Would add safe drinking water to nutrition and income security on the list of programs for which direct linkages are encouraged.
- 2) Rep. Jeff Fortenberry (R-NE): Would ensure that audits by the Inspector General include information on subcontractors.
- 3) Rep. Betty McCollum (D-MN)/Rep. Jesse Jackson (D-IL): Would add Malawi, Swaziland, and Lesotho to the list of new “focus” countries proposed to be added in the bill.
- 4) Rep. Andre Carson (D-IN): Would direct the Coordinator of United States Government Activities to Combat HIV/AIDS Globally and the Administrator of the United States Agency for International Development to expand their plan for strengthening health systems of host countries by allowing for African postsecondary educational institutions and specifically historically black college and universities.

ADDITIONAL VIEWS

According to the Statement of Administration Policy, “The Administration is deeply committed to fighting the global HIV/AIDS epidemic, supports House passage of the bill, and looks forward to working with Congress to strengthen it. Through the President’s Emergency Plan for AIDS Relief (PEPFAR), the American people have shown our Nation’s commitment to saving and improving lives. PEPFAR is supporting life-saving anti-retroviral treatment for approximately 1.45 million people, and the program is on track to fulfill its original goals of supporting treatment of 2 million people, preventing 7 million new infections, and providing care for 10 million people, including orphans and vulnerable children. The Emergency Plan is creating strong partnerships and allies in countries where 5 years ago the AIDS pandemic threatened to destroy entire generations. Congress and the American people should be proud of this compassionate program, which is bringing hope and healing to millions of people around the world. The Administration supports H.R. 5501, the Tom Lantos and Henry J. Hyde U.S. Global Leadership



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Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act of 2008, which would reauthorize PEPFAR and ensure the continued success of this program." ([SAP for H.R. 5501](#))

COST

The Congressional Budget Office estimates "that implementing H.R. 5501 would cost \$1.5 billion in 2009 and \$35 billion over the 2009-2013 period, assuming appropriation of the authorized amounts. Enacting the bill would not affect direct spending or receipts." ([CBO Cost Estimate](#))

MOTION TO RECOMMIT

Please find the Republican Motion to Recommit [here](#).

STAFF CONTACT

For questions or further information contact Brianne Miller at (202) 226-2302.